

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSE DATA, a/k/a JOSE ALBERTO
DE AZA-MARTE,

Petitioner,

v.

9:02-CV-738
(C.J.Scullin)

W. BARKLEY, Superintendent, Cape
Vincent Correctional Facility;
BUREAU OF IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent.

APPEARANCES:

OF COUNSEL:

JOSE DATA
Petitioner pro se

HON. ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Respondent Barkley

JEANETTE RODRIGUEZ-MORICK
Asst. Attorney General

FREDERICK J. SCULLIN, JR., CHIEF D.J.:

ORDER

Presently before the Court is Magistrate Judge Gustave J. DiBianco's June 13, 2005 Report-Recommendation in which he recommends that the petition be denied and dismissed as moot. Magistrate Judge DiBianco's Report-Recommendation was mailed to petitioner's last known address, but was returned to the Clerk's office marked "returned to sender - not here." Failure to notify

the Court of a change of address as required by Local Rule 10.1(b) may result in dismissal of the action. Therefore, in light of Petitioner's failure to notify the Court of his change of address, it is hereby

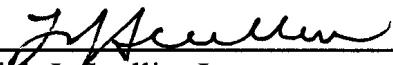
ORDERED, that the Report-Recommendation filed by Magistrate Judge Gustave J. DiBianco on June 13, 2005 is, for the reasons stated therein, **ACCEPTED** in its entirety; and it is further

ORDERED, that the petition is **DENIED and DISMISSED AS MOOT**, and it is further

ORDERED, that the Clerk of the Court enter judgment in favor of the Respondent and against the Petitioner and **close** this case.

IT IS SO ORDERED.

Dated: July 11, 2005
Syracuse, New York



Frederick J. Scullin, Jr.
Chief United States District Court Judge